

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1970 of 1997

Date of decision: 12-8-98

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

BHAGVATIBEN AMRATPURI GOSWAMI

Appearance:

Mr. Mukesh Patel, AGP, for the appellant

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 12/08/98

ORAL JUDGEMENT

By this appeal challenge has been made by the defendant-appellant to the judgment and decree of the 6th Joint Civil Judge, Senior Division, Mehsana, dated 7th February, 1997 under which the Court has passed decree for Rs.2,000/- for the expenses of delivery in favour of the plaintiffs - respondents No.1 and 2. The claim of the plaintiffs - respondents for compensation of Rs.1 lac for failure of the family planning operation was not accepted. Learned trial Judge has held that the plaintiffs respondents No.1 and 2 have failed to prove negligence and or carelessness of the doctor concerned in performing family planning operation.

2. On merits the defendants -appellants may have a case, but looking to the fact that the trial court has awarded petty and small amount of Rs.2,000/- towards expenses of the operation, no interference is called for. Today I have had occasion to deal with similar appeal, i.e. First Appeal No.2510 of 1997, in which case also this court has not interfered on the ground of petty and small claim involved therein. It is true that negligence has not been proved in doing laparoscopy operation, but unfortunately it is a fact that after the operation the lady has given birth to a child. Technically the trial court may not be correct. But looking to the fact that this is an appeal by the State Government which should normally avoid filing of appeal in such small matters where cost of filing would have been more than the amount of decree, and looking to the fact that this court is already facing problem of heavy pendency of the matters, taking into consideration the totality of the facts of the case I do not find it to be a fit case where this appeal should be admitted.

3. In the result this appeal fails and the same is dismissed.

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